

March 18, 2016

REGULAR MEETING MINUTES
ILLINOIS CIVIL SERVICE COMMISSION
March 18, 2016

I. CALL TO ORDER THE REGULAR OPEN MEETING AT 11:02 A.M. AT 160 NORTH LASALLE STREET, SUITE S-901, CHICAGO, ILLINOIS

II. PRESENT

Anita M. Cummings, Susan Moylan Krey, and William A. Schroeder, Commissioners; Daniel Stralka, Executive Director; Andrew Barris (by telephone), Assistant Executive Director; Michael Quinlan (by telephone), Sherry Campbell (by telephone), John Logsdon (by telephone), Ben Fokum (by telephone), and Chris Nickols (by telephone), Illinois Department of Central Management Services; Emily Monk, Teresa Smith and Brittany Ladd, Illinois Department of Commerce and Economic Opportunity; Barb Call (by telephone) and Jennifer Stout (by telephone), Illinois Department of Insurance; and Beth Duesterhaus (by telephone) and Connie Westfall (by telephone), Administrative and Regulatory Shared Services Center.

III. APPROVAL OF MINUTES OF REGULAR OPEN MEETING HELD FEBRUARY 19, 2016

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER SCHROEDER, AND THE MOTION ADOPTED 3-0, TO APPROVE THE MINUTES OF THE REGULAR OPEN MEETING HELD FEBRUARY 19, 2016.

Commissioner Anita M. Cummings noted that she did not attend the meeting but had reviewed the Minutes prior to today's meeting.

IV. PUBLIC COMMENT IN ACCORDANCE WITH THE OPEN MEETINGS ACT

At this time, in accordance with the Open Meetings Act and the Rules of the Civil Service Commission, Executive Director Daniel Stralka offered an opportunity for any person to address members of the Commission. Hearing no response, the meeting proceeded to the next agenda item.

March 18, 2016

V. EXEMPTIONS UNDER SECTION 4d(3) OF THE PERSONNEL CODE

A. Report on Exempt Positions from Department of Central Management Services

<u>Agency</u>	<u>Total Employees</u>	<u>Number of Exempt Positions</u>
Aging.....	147	18
Agriculture.....	339	20
Arts Council.....	11	2
Capitol Development Board.....	46	0
Central Management Services.....	1,422	115
Children and Family Services.....	2,543	49
Civil Service Commission.....	4	0
Commerce & Economic Opportunity.....	306	69
Commerce Commission.....	63	0
Corrections.....	11,840	98
Criminal Justice Authority.....	53	7
Deaf and Hard of Hearing Comm.....	5	1
Developmental Disabilities Council.....	9	1
Emergency Management Agency.....	75	6
Employment Security.....	1,189	32
Environmental Protection Agency.....	709	18
Financial & Professional Regulation.....	429	49
Gaming Board.....	173	6
Guardianship and Advocacy.....	100	8
Healthcare and Family Services.....	1,968	26
Historic Preservation Agency.....	133	17
Human Rights Commission.....	14	2
Human Rights Department.....	127	9
Human Services.....	13,180	75
Illinois Torture Inquiry Relief Commission.....	2	1
Independent Tax Tribunal.....	1	0
Insurance.....	246	16
Investment Board.....	3	2
Juvenile Justice.....	1,092	26
Labor.....	84	11
Labor Relations Board Educational.....	9	2
Labor Relations Board State.....	15	2
Law Enforcement Training & Standards Bd.....	19	2
Lottery.....	133	8
Military Affairs.....	130	3
Natural Resources.....	1,175	31
Pollution Control Board.....	19	2
Prisoner Review Board.....	20	0
Property Tax Appeal Board.....	34	1
Public Health.....	1,137	40
Racing Board.....	2	1
Revenue.....	1,594	53
State Fire Marshal.....	122	12
State Police.....	1,051	10
State Police Merit Board.....	6	2
State Retirement Systems.....	102	3
Transportation.....	3,790	0
Veterans' Affairs.....	1,403	10
Workers' Compensation Commission.....	122	11
TOTALS.....	47,196	877

B. Governing Rule – Section 1.142 Jurisdiction B Exemptions

- a) The Civil Service Commission shall exercise its judgment when determining whether a position qualifies for exemption from Jurisdiction B under Section 4d(3) of the Personnel Code. The Commission will consider any or all of the following factors inherent in the position and any other factors deemed relevant to the request for exemption:
 - 1) The amount and scope of principal policy making authority;
 - 2) The amount and scope of principal policy administering authority;
 - 3) The amount of independent authority to represent the agency, board or commission to individuals, legislators, organizations or other agencies relative to programmatic responsibilities;
 - 4) The capability to bind the agency, board or commission to a course of action;
 - 5) The nature of the program for which the position has principal policy responsibility;
 - 6) The placement of the position on the organizational chart of the agency, board or commission;
 - 7) The mission, size and geographical scope of the organizational entity or program within the agency, board or commission to which the position is allocated or detailed.
- b) The Commission may, upon its own action after 30 days notice to the Director of Central Management Services or upon the recommendation of the Director of the Department of Central Management Services, rescind the exemption of any position that no longer meets the requirements for exemption set forth in subsection (a). However, rescission of an exemption shall be approved after the Commission has determined that an adequate level of managerial control exists in exempt status that will insure responsive and accountable administrative control of the programs of the agency, board or commission.
- c) For all positions currently exempt by action of the Commission, the Director of Central Management Services shall inform the Commission promptly in writing of all changes in essential functions, reporting structure, working title, work location, position title, position number or specialized knowledge, skills, abilities, licensure or certification.
- d) Prior to granting an exemption from Jurisdiction B under Section 4d(3) of the Personnel Code, the Commission will notify the incumbent of the position, if any, of its proposed action. The incumbent may appear at the Commission meeting at which action is to be taken and present objections to the exemption request.

(Source: Amended at 34 Ill. Reg. 3485, effective March 3, 2010)

* * *

C. Requests for 4d(3) Exemption

Executive Director Daniel Stralka reported the following:

- As to Item C, by agreement between Commission Staff and Central Management Services, it is requested that Items C and D be continued to the Commission's April 15, 2016 meeting.
- As to Item E1, the agency asked to withdraw this request.
- As to Item E2, this is a request from the Department of Commerce and Economic Opportunity (DCEO) for an Assistant Deputy Director in the Office of Trade and Investment (OTI), a position that reports to the Deputy Director of OTI who reports to the Director. The OTI is to promote Illinois' economy through outreach events and trade missions, and provide financial and technical exporting assistance to Illinois companies. This position was first granted an exemption in 2011 but had it rescinded due to extended vacancy in 2013. The agency is, essentially, seeking to reinstate the exemption. It has been the Commission's practice that when an agency comes back before the Commission seeking to reestablish such an exemption because it now is going to fill the position, it is approved routinely. There is a wrinkle to this request. On February 3, 2016 the Governor issued Executive Order 2016-2 which referenced the creation of a not-for-profit corporation – the Illinois Business and Economic Development Corporation (ILBEDC) – which would assist DCEO in its economic development work. What is somewhat unknown at this time is what will be the relationship between the ILBEDC and DCEO or which of these entities would be taking the lead on economic development policy determinations. That would potentially impact the eligibility for exemption of this position. Agency representatives indicated that the OTI would survive any organizational change resulting from the ILBEDC. Since at this point in time the ILBEDC has yet to be implemented and considering the Commission's practice of approving requests to reinstate exemptions that had been rescinded due to extended vacancy, it is the Staff recommendation to approve this request. However, it was conveyed to the agency that this is the sole reason and continued eligibility would depend on how the ILBEDC ends up being utilized by the agency, or vice-versa. Executive Director Stralka also noted that he has a scheduled meeting with DCEO officials early next month to further discuss the implementation of the ILBEDC.

Emily Monk, Senior Advisor, Illinois Department of Commerce and Economic Opportunity, agreed with this presentation but also noted that this position deals with overseas officials and they prefer to deal directly with government representatives and not employees of some not-for-profit corporation. That lends legitimacy to the discussions.

Commissioner Cummings indicated that she is uncomfortable with the ILBEDC and suggested that this request be continued until next month so the Staff meeting with the agency can take place. Monk replied that the agency's concern was a continuance may adversely impact its plans to appoint a candidate to this position. The Governor's Office has made OTI a priority. Commissioner Cummings replied that she had concerns about the ILBEDC being an outside entity acting on behalf of a State agency.

Commissioner Schroeder inquired whether the prospective employee understood the ramifications of the exemption status. Emily Monk assured that they did and noted approval of the exemption request makes the position "at will" anyway.

Commissioner Cummings asked for some additional information about the ILBEDC. Brittany Ladd, Chief Operating Officer, Illinois Department of Commerce and Economic Opportunity, responded that the Articles of Incorporation had been filed but much remains unknown due to it being so new. Commissioner Cummings then asked why the State needs it and how it helps. Emily Monk responded that it is following the practice of other States that have created similar entities to take the lead on some economic development initiatives. Commissioner Cummings inquired about funding and Monk indicated that it would not be State funded. Commissioner Schroeder expressed a concern that the agency may lose the candidate.

Commissioner Krey noted that the position has essentially been vacant for five years and asked why the agency was acting now. Emily Monk replied that there was not much support from the prior administration to appoint to this position and a suitable candidate was never identified. Brittany Ladd added that this administration was focusing on international trade as an economic development initiative.

Commissioner Cummings added that she was uncomfortable with the idea of an outside entity coming in to do the work that capable State employees presently perform. Commissioner Schroeder asked for clarification that this position will specifically dealing with foreign trade which Emily Monk confirmed. Executive Director Stralka noted that the ITO appears to be an entity that because of its subject matter will not be affected by the addition of the ILBEDC as other programs may. He added that there are presently a large number of exempt position vacancies at the agency.

- As to Item F, the agency requested that this be continued to the Commission's April 15, 2016 meeting. Staff had no objection to this request.
- As to Item G, this is a request from the Department of Insurance that has had a number of term exemptions since its establishment. Its latest term exemption expires today and was approved this past January. Staff and agency have been in discussions in the interim but differences remain and Staff is unable to make any sort of definitive recommendation at this time. The agency requested additional time to provide requested information to Commission Staff since it appears every time it responds new issues arose. Staff had no objection to this request and recommended that the Commission both continue this request to the Commission's May 20 2016

March 18, 2016

meeting and approve a two month extension of the term exemption to the same date. Commissioner Krey inquired if the agency will be ready to proceed with this request by May. Jennifer Stout responded affirmatively.

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER SCHROEDER, THE MOTION ADOPTED 3-0 TO CONTINUE TO APRIL 15, 2016 THE EXEMPTION REQUESTS FOR THE FOLLOWING POSITIONS:

- C: Chief Labor Counsel (Corrections)**
- D: Chief Labor Counsel (Human Services)**
- F: Comptroller, Office of Finance and Management (Central Management Services)**

IT WAS MOVED BY COMMISSIONER SCHROEDER, SECONDED BY COMMISSIONER CUMMINGS, THE MOTION ADOPTED 3-0 TO ACCEPT THE WITHDRAWAL OF THE EXEMPTION REQUEST FOR THE FOLLOWING POSITION:

- E1: Regional Economic Development/West Central Region (Commerce and Economic Opportunity)**

IT WAS MOVED BY COMMISSIONER SCHROEDER, SECONDED BY COMMISSIONER KREY, THE MOTION ADOPTED 3-0 TO GRANT THE EXEMPTION REQUEST FOR THE FOLLOWING POSITION:

- E2: Assistant Deputy Director, Office of Trade and Investment (Commerce and Economic Opportunity)**

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER SCHROEDER, THE MOTION ADOPTED 3-0 TO BOTH GRANT THE EXEMPTION REQUEST TO MAY 20, 2016 AND CONTINUE IT TO MAY 20, 2016 FOR THE FOLLOWING POSITION:

- G: Health Information Technology Exchange Program Director (Insurance)**

The following 4d(3) exemption requests were continued to April 15, 2016:

C. Illinois Department of Corrections

Position Number	40070-29-08-000-01-01
Functional Title	Chief Labor Counsel
Incumbent	Vacant
Supervisor	Governor's Office Chief Labor Counsel
Location	Sangamon County

D. Illinois Department of Human Services

Position Number	40070-10-00-000-00-01
Functional Title	Chief Labor Counsel
Incumbent	Vacant
Supervisor	Governor's Office Chief Labor Counsel
Location	Sangamon County

F. Illinois Department of Central Management Services

Position Number	40070-37-50-200-00-01
Functional Title	Comptroller, Office of Finance and Management
Incumbent	Vacant
Supervisor	Chief Financial Officer who reports to the Director
Location	Sangamon County

The following 4d(3) exemption was withdrawn on March 18, 2016:

E1. Illinois Dept. of Commerce and Economic Opportunity

Position Number	40070-42-10-600-00-01 ¹
Functional Title	Regional Economic Development/West Central Region
Incumbent	Vacant
Supervisor	Regional Economic Development Deputy Director who reports to the Director
Location	Sangamon County

The following 4d(3) exemption request was granted on March 18, 2016:

E2. Illinois Dept. of Commerce and Economic Opportunity

Position Number	40070-42-00-090-05-01 ²
Functional Title	Assistant Deputy Director, Office of Trade and Investment
Incumbent	Vacant
Supervisor	Deputy Director, Office of Trade and Investment who reports to the Director
Location	Cook County

¹ Previous exemption was rescinded on February 20, 2015 due to extended vacancy.

² Previous exemption was rescinded on November 15, 2013 due to extended vacancy.

The following 4d(3) exemption was granted to May 20, 2016 and continued to May 20, 2016 on March 18, 2016:

G. Illinois Department of Insurance

Position Number	40070-14-40-000-00-01
Functional Title	Health Information Technology Exchange Program Director ³
Incumbent	Brian P. Gorman, Elizabeth Diaz-Castillo ⁴
Supervisor	Director
Location	Cook County

VI. CLASS SPECIFICATIONS

A. Governing Rule – Section 1.45 Classification Plan

The Commission will review the class specifications requiring Commission approval under the Classification Plan and will approve those that meet the requirements of the Personnel Code and Personnel Rules and conform to the following accepted principles of position classification:

- a) The specifications are descriptive of the work being done or that will be done;
- b) Identifiable differentials are set forth among classes that are sufficiently significant to permit the assignment of individual positions to the appropriate class;
- c) Reasonable career promotional opportunities are provided;
- d) The specifications provide a reasonable and valid basis for selection screening by merit examinations;
- e) All requirements of the positions are consistent with classes similar in difficulty, complexity and nature of work.

The following class titles were submitted for abolishment, creation, and revision by the Director of the Illinois Department of Central Management Services (CMS):

B. Boiler Safety Audit Specialist (create)

Boiler Safety Specialist (revise)

C. Health Services Investigator I Option A (abolish)

Health Services Investigator I Option B (abolish)

Health Services Investigator II Option A (revise)

Health Services Investigator II Option B (abolish)

³ This position was granted exemption on March 16, 2012 for two years which was extended on February 21, 2014 for an additional two years. On January 15, 2016 the position was granted exemption through March 18, 2016.

⁴ There is an approved Additional Identical which expires on March 18, 2016.

Health Services Investigator II Option C (revise)
Health Services Investigator II Option D (abolish)
Health Services Investigator I (create)

D. Juvenile Justice School Counselor (create)

E. Special Education Resources Coordinator (create)

Staff Analysis: Assistant Executive Director Barris spoke to Chris Nickols at CMS Technical Services about the proposed new and revised classes. Barris inquired if there were existing classes that addressed the issues raised by the new classes. In other words, it was surprising that existing classes did not address the needs expressed in the proposal, i.e., there is not already a counselor at Juvenile Justice, or isn't the State Fire Marshal already making sure that boiler safety inspections are done correctly. Barris also commented that all of the proposed classes were requested in 2014. Barris inquired about the budget impact of the decisions. Nickols confirmed that the budgetary issues technically have no bearing on class creation or revisions.

- Regarding Item B, Nickols noted that the Boiler Safety Audit Specialist was at Labor Relations for a long time and agreed that historical precedent indicated that the positions within the class would be included in a union. Nickols explained that the responsibilities fell under the Chief Inspector but he could not be all over the state at the same time and wanted to create a separate class with 20% of the responsibilities resulting in two classes versus just the Specialist class.
- Regarding Item C, Barris noted that the creation and revision of the Health Services Investigator classes was needed due to recent changes to the Controlled Substance Act and pharmacy licensing.
- Regarding Items D and E, Nickols explained that the Juvenile Justice classes were required by a judicial consent decree as Illinois was forced to create these classes to address the needs at juvenile facilities. Nickols offered to provide the consent decree. The proposed classes were all agreed to pursuant to collective bargaining.

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER SCHROEDER, AND THE MOTION ADOPTED 3-0 TO APPROVE THE ABOLISHMENT, CREATION, AND REVISION OF THE FOLLOWING CLASS TITLES TO BE EFFECTIVE APRIL 1, 2016:

B. Boiler Safety Audit Specialist (create)
Boiler Safety Specialist (revise)

C. Health Services Investigator I Option A (abolish)
Health Services Investigator I Option B (abolish)
Health Services Investigator II Option A (revise)
Health Services Investigator II Option B (abolish)
Health Services Investigator II Option C (revise)
Health Services Investigator II Option D (abolish)
Health Services Investigator I (create)

D. Juvenile Justice School Counselor (create)

E. Special Education Resources Coordinator (create)

IT WAS MOVED BY COMMISSIONER KREY, SECONDED BY COMMISSIONER SCHROEDER, AND THE MOTION ADOPTED 3-0 TO DISAPPROVE ANY CLASS SPECIFICATIONS RECEIVED BY THE COMMISSION STAFF NOT CONTAINED IN THIS AGENDA TO ALLOW ADEQUATE STUDY.

VII. PERSONNEL RULES

A. Civil Service Commission Governing Rule – Section 1.310 Personnel Rules

The Commission has power to disapprove new rules or amendments to existing rules submitted by the Director of Central Management Services. Such proposed new rules or amendments of existing rules submitted to the Commission shall be accompanied by a report of proceedings attending the prior public hearing required by law with respect to them. If the Commission does not disapprove new rules or any amendment to existing rules within 30 days following the receipt from the Director of Central Management Services, the new rules or amendments have the force and effect of law after filing by the Director with the Secretary of State.

B. None submitted

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER SCHROEDER, AND THE MOTION ADOPTED 3-0 TO DISAPPROVE ANY AMENDMENTS TO PERSONNEL RULES RECEIVED BY THE COMMISSION STAFF BUT NOT CONTAINED IN THIS AGENDA TO ALLOW ADEQUATE STUDY.

VIII. MOTION TO CLOSE A PORTION OF THE MEETING

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER SCHROEDER, AND BY ROLL CALL VOTE THE MOTION ADOPTED 3-0 TO CLOSE A PORTION OF THE MEETING PURSUANT TO SUBSECTIONS 2(c)(1), 2(c)(4), AND 2(c)(11) OF THE OPEN MEETINGS ACT.

CUMMINGS	YES	KREY	YES
SCHROEDER	YES	URLACHER	

March 18, 2016

IX. RECONVENE THE OPEN MEETING

Upon due and proper notice the regular open meeting of the Illinois Civil Service Commission was reconvened at 160 North LaSalle Street, Suite S-901, Chicago, Illinois at 11:45 a.m.

PRESENT

Anita M. Cummings, Susan Moylan Krey, and William A. Schroeder, Commissioners; Daniel Stralka, Executive Director; and Andrew Barris, Assistant Executive Director (by telephone).

X. NON-MERIT APPOINTMENT REPORT

Set forth below is the number of consecutive non-merit appointments made by each department as reported by Central Management Services:

Agency	1/31/16	2/29/16	2/28/15
Central Management Services	2	2	1
Children and Family Services	0	0	4
Employment Security	0	1	0
Financial and Professional Regulation	0	1	0
Healthcare and Family Services	4	5	5
Human Services	11	15	4
Insurance	1	2	1
Juvenile Justice	1	0	0
Natural Resources	13	6	4
State Retirement Systems	3	3	0
Transportation	5	7	9
Workers Compensation Commission	3	3	0
Totals	43	45	28

March 18, 2016

XI. PUBLICLY ANNOUNCED DECISIONS RESULTING FROM APPEALS

DA-3-16

Employee	LaToya Pamplin	Appeal Date	7/20/15
Agency	Human Services	Decision Date	3/04/16
Appeal Type	Discharge	Proposal for	Discharge upheld.
ALJ	Andrew Barris	Decision	

IT WAS MOVED BY COMMISSIONER SCHROEDER, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 3-0 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE THAT THE PROVEN CHARGES WARRANT DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 4, 2016.

**CUMMINGS YES KREY YES
SCHROEDER YES URLACHER**

DA-17-16

Employee	Vida C. Barber	Appeal Date	9/30/15
Agency	Veterans' Affairs	Decision Date	3/04/16
Appeal Type	Discharge	Proposal for	90-day suspension plus duration of suspension pending discharge.
ALJ	Andrew Barris	Decision	

COMMISSIONER CUMMINGS MOVED TO MODIFY THE ADMINISTRATIVE LAW JUDGE'S PROPOSAL FOR DECISION TO A 60-DAY SUSPENSION PLUS DURATION OF THE SUSPENSION PENDING DISCHARGE. THIS MOTION FAILED FOR LACK OF A SECOND.

IT WAS MOVED BY COMMISSIONER SCHROEDER, SECONDED BY COMMISSIONER KREY, AND BY ROLL CALL VOTE OF 2-1 THE MOTION ADOPTED TO AFFIRM AND ADOPT THE PROPOSAL FOR DECISION OF THE ADMINISTRATIVE LAW JUDGE THAT THE PROVEN CHARGES WARRANT A 90-DAY SUSPENSION PLUS THE DURATION OF THE SUSPENSION PENDING DISCHARGE FOR THE REASONS SET FORTH IN THE PROPOSAL FOR DECISION DATED MARCH 4, 2016.

**CUMMINGS NO KREY YES
SCHROEDER YES URLACHER**

XII. CHAIRMAN REPORT

No report.

March 18, 2016

XIII. STAFF REPORT

Executive Director Daniel Stralka reported:

- The Commission's fiscal year 2017 Appropriation hearing with the Senate Appropriation II Committee set for March 17 was going to be rescheduled because the Committee ran out of time before he could be heard.
- The Supplemental Statements of Economic Interest are due to be mailed out next week. Contact him if any questions.
- The Illinois Department of Employment Security is moving into office space next to the Commission's Springfield office. Construction is ongoing and scheduled to be completed by April 1.
- The Governor issued Executive Order 4-2016 on February 26, 2016. A portion of this Executive Order mandates that CMS adopt and implement a Code of Personal Conduct for all State employees. Executive Director Stralka noted that by the terms of the Executive Order, violations of this Code of Personal Conduct are considered violations of the State Officials and Employees Ethics Act. The significance is that the Commission does not have jurisdiction over violations of this Act. Any employee appeals of such violations with the Commission will have to be dismissed due to lack of jurisdiction. A concern is that employees who file these appeals may then be too late to file an appeal with the proper forum, the Executive Ethics Commission.

Assistant Executive Director Barris reported that there was an arbitration decision that allowed for the layoff of union employees and that the Commission could see an increase in layoff appeals as a result. However, the decision will be appealed and the parties agreed that the layoffs would not be effectuated until the appeals were concluded.

XIV. ANNOUNCEMENT OF NEXT MEETING

Announcement was made of the next regular open meeting to be held Friday, April 15, 2016 at 1:30 p.m. in the Commission's Springfield office.

XV. MOTION TO ADJOURN

IT WAS MOVED BY COMMISSIONER CUMMINGS, SECONDED BY COMMISSIONER SCHROEDER, AND THE MOTION ADOPTED 3-0 TO ADJOURN THE MEETING AT 12:00 P.M.